

**NAVAJO COUNTY**  
**MINUTES**  
**BOARD OF ADJUSTMENT MEETING**  
**April 9, 2003**

Board of Adjustment Members

**ATTENDED**

1. Bill Arendell, Chairman
2. Harry Hancock
3. Carla Bowen

Staff Attendance

1. Alan Knight, Code Enforcement Officer
2. David Ashton, Director
3. Mary Bradley, Secretary

**ABSENT**

Meeting held at the Board of Supervisors' Administration Conference Room, Holbrook, Arizona – Time 10:00 a.m.

**Bill Arendell** called the meeting of the Navajo County Board of Adjustment to order, and explained the meeting procedures to the public and then led the Pledge of Allegiance.

Item #1: **Use Permit:** Discussion and possible board action on a request by **Jim & Rose Mary Crossman** for a use permit to allow the existing mobile home to remain as a guesthouse on the same 1 acre parcel after a new manufactured home is placed. Location: APN: 206-22-021, T12N, R17E, Section 29, 2861 Wildcat Trail, in the Overgaard area. **Alan Knight** gave a case history of the project and presented maps showing the general area and the revised site plan. Mr. Knight stated that he has a revision of the site plan that was originally given to the Board and presented each Board member with the revised copy. Mr. Knight showed on the map where the applicants were originally intending to place the mobile home and then he showed on the revised site plan the new location. There is no neighborhood impact because the units are barely seen from the road. Staff recommends approval with stipulations based on the inspection of the property. Mr. Knight asked that stipulation 4 be stricken. Mr. Knight explained that unless the applicant actually moves the mobile home they are not required to have rehabilitation certificate. Mr. Knight said that staff had not received any comments in favor or opposition regarding this matter. **James and Rosemary Crossman** are the applicants and they were both in attendance. Mr. Crossman explained that they were trying to use their old trailer as a vacation home and it has become increasingly difficult for his wife to use it and they needed a better place for them to live. Mr. Crossman said that the Palm Harbor Home is so much easier than the trailer for them to get around in. Mr. Crossman explained that the old trailer would only be used for family members. **Carla Bowen** asked about the two existing septic tanks if they were leaching into the same field. **Alan Knight** said that he didn't believe that they were and this is a completely new septic with an ample reserve area. **No one came forward to speak in favor or opposition regarding this matter.** A motion was made by **Harry Hancock** to approve the Use Permit with stipulations stated by staff, and stipulation number four being stricken. **RECOMMENDED**  
**STIPULATIONS:** *1. Septic Systems(s) will be properly permitted and installed, and/or certified by a licensed contractor. 2. Neither residence shall ever be used as a rental. 3. All set-up permits secured prior to placement of mobile home. 4. Setbacks must be met as per the area's zoning requirements.* **Carla Bowen** seconded the motion. Motion unanimously carried.

Item #1: **Review:** Discussion and possible board action on a request by **Billy L. Owens**, at 1880 Bigler Lane, for a review of Resolution No. 01:04B, which granted Wilburn Brown permission to have a second residence on the property until completion of a primary residence. Location of the Brown property: APN: 207-12-035H, T12N, R16E, Section 13, 1892 Bigler Lane, in the Overgaard area. **Alan Knight** said that is an unusual case. Mr. Knight went on to say that Development Services felt the best way to approach this is to place this on the agenda as a review as requested by Mr. Owens. The resolution was granted in June of 2001 and staff felt that they should revisit the stipulations on that resolution. Mr. Knight said that staff recommends revision of stipulations due to extenuating circumstances. Mr. Knight explained that a bankruptcy

had caused the Browns' to pursue other avenues toward compliance. Staff believes that a reasonable modification to the stipulations is in order. Mr. Knight said that he had received 10 phone calls in favor, 2 letters in favor and a petition signed by at least a dozen people (some of the people who signed the petition also phoned Mr. Knight) who are also in favor. Mr. Knight also said other than Mr. Owens he had not received anything else in opposition. Mr. Knight said actually as far as the stipulations of the original resolution are concerned, the applicants are in violation. Mr. Knight said that the violation was that they would remove the trailer from the property once the house was built. Mr. Knight said because of the bankruptcy they were unable to do this and there still is an excavation hole on the property. The Browns have taken care of the junk that was in the yard, fenced the excavation hole, and removed most of the construction materials. Mr. Knight went over the Resolution 01:04B and said that stipulation number two is the one that the Browns are in violation of (The mobile home will be removed from the septic system and the property when construction is complete or by July 1, 2002). Mr. Knight said that the use permit was granted so that they could use the trailer. There is a second building on the property, a permanent storage building/office that is being used by two of the Browns children for sleeping quarters. Mr. Knight said that this was part of the granting of the use permit (having two residences on the same property). **Bill Arendell** asked if they have two home sites under construction and if one of them is excavated. **Alan Knight** said no that both of the properties where the houses are located are the properties of Wilburn Brown (Garth Brown's father). Mr. Knight said that the first big house that they started to build is the one that they started and then they went into bankruptcy. Wilburn Brown is building another house on his property northwest of this. This will be where the Garth Brown family will live until they get their finances together in order to complete their other house. Mr. Knight said that the Browns have already spoken to him and asked him what they need to do in order to reopen the building permit that they originally taken out on their house. Mr. Knight said that the applicants do want to complete the house and they do not want to abandon it. **Wilburn Brown** is the owner of the property. Mr. Brown acknowledged that he does have title to two parcels in the Heber/Overgaard area. Mr. Brown said that one of the parcels is the, 2-1/4 acres where they started construction of the house and the other parcel is 1-acre northwest of this other parcel where he is currently building a house. Mr. Brown said that the 1-acre house that he is currently building is financed and under construction. Mr. Brown said this situation came about because of county code (two residences on one parcel). Mr. Brown said that there not two dwellings and wants to be in compliance. Mr. Brown gave examples of their willingness to comply such as picking up the junk, placing a fence around the excavation site and around the building materials. Mr. Brown expressed concern with any stipulation indicating they have to have the home completed by a certain date. Mr. Brown told the board that unexpected things do come up. **Carla Bowen** asked when was the bankruptcy filed. Ms. Bowen said if a bankruptcy has been filed it would be at least two years before any financing will be obtained. Ms. Bowen said if there are people living on the property and it is not completed, then there would be some impact on the community. Ms. Bowen said that she does not see anything happening for a couple of years until the finances are squared away. Ms. Bowen commented that they are already two years down the road with all these issues and it makes her wonder that if the Board doesn't put some teeth into this if anything will get completed. Ms. Bowen said that from her notes that the house got started in 1999, and it is very seldom that she has seen a house take four and half years to finish. **Alan Knight** said that he had one inspection done, and it was for the foundation, and the permit has since expired. **Wilburn Brown** said that the excavation was done last year. **Bill Arendell** said that he visited the site and most of the construction materials are cleaned up and the only issue he can see is the pile of the dirt and the holes. Mr. Arendell acknowledged that the holes are fenced off but there are significant piles of excavation dirt. **Wilburn Brown** said that the piles of dirt are a temporary situation. Mr. Brown said that if they were asked to move the mobile home it would make the family homeless. **Alan Knight** explained by county ordinance he could not tell the Browns to remove their trailer but by stipulation of that resolution it states that it has to be removed. Mr. Knight asked the Board if there is any way to revise that stipulation to accommodate this situation. **Lewis Tenney** spoke in favor of this project. Mr. Tenney said that there are no deed restrictions on a trailer. Mr. Tenney told the Board that he believed that they did not have all of the facts when they made the determination. Mr. Tenney said that he has property north and south of the Browns and the Owens family. Mr. Tenney said that he spoke to the Browns and said that their goal and intent is eventually to remove the trailer. Mr. Tenney gave his version of the zoning ordinance (statue calls for per acre not parcel for how many dwellings). Mr. Tenney said that he does not think there are two dwellings on that location. Mr. Tenney believes that the Browns will move to their goal of completing their home and removing the mobile home off their property. **Clarence Crandell** spoke in favor of the Browns by asking the Board to let the Browns reside in their trailer until their house is built. Mr. Crandell said that the trailer would eventually be moved, but it would take time. **Tisha Crandell** was in support of the Browns. **Billy Owens** spoke in opposition. Mr. Owens said that he is not opposed to the Browns having a mobile home on the primary residence. Mr. Owens said there should be a time limit. At the previous Board meeting before they agreed to have the construction completed and all the materials and the trailer removed by July 1, 2002. Mr. Owens said that it came and went and there has not been any enforcement on this stipulation. Mr. Owens said that just because someone falls on bad times they shouldn't be above the rulings given by the Board. Mr. Owens said if the Board makes the ruling, then they should follow through with it. Mr. Owens said that his concern is not the mobile home but how long it will be allowed to stay there. Mr. Owens expressed concerns with the excavation holes and said that there should be a time frame stating how long they should let them stand before asking for them to be covered up. Mr. Owens said his main concern is how long they will be allowed to continue with this the way it is. Mr. Owens reiterated that he is concerned with the time frame and it

would be years down the road before this is resolved. Mr. Owens sees this as dragging on and on. Harry Hancock said that a fair amount of time should be defined. Mr. Hancock said a stipulation should be made that in a certain amount of time it has to be completed. Mr. Hancock said that unless this is done, he does not feel that he can vote for it. Carla Bowen said they Board did this based on the information that they had. Ms. Bowen commented that life happens when they are making other plans. Ms. Bowen said that she can understand where things happen in a person's life, when they make a commitment and these commitments cannot be lived up to, or are out of your control. Ms. Bowen said, do you hit a person with the hammer when he is down, or do you work with the situation and be a bit more reasonable by giving more time. Alan Knight said to a certain extent the actual permit that is issued for building a house gives you a certain amount of time frame that you would have to stay within. Mr. Knight went into detail explaining the permitting process to the Board. Bill Arendell said that he would rather have the opportunity to have a nice home to be started then removing the trailer when it is completed. Carla Bowen asked Mr. Brown if the Board gave then another year to complete the house would this be a commitment that they could make. Wilburn Brown said that he is not in violation of the code and would not want another stipulation for a time frame for that particular house because any number of things could happen. Alan Knight said that unless anyone building a house that size has his or her own general contractor and you could not possibly expect this to be done in a year. Garth Brown said they were led to believe and coerced by Regan Roach (previous code enforcement officer) that if they did not agree to these stipulations they would condemn the trailer and make them move off the property. Mr. Brown said that if the original resolution were taken, and to legally processed, it would be found invalid. Mr. Brown said that a lot that was discussed today regarding the original agreements; since this was illegal it is a moot point. Mr. Brown stated that they are in compliance with the code. Lewis Tenney said that he could understand the timing issue. Mr. Tenney said that this really hasn't run its course with the building department. Mr. Tenney indicated that once this is done, we then have the ability by ordinance to put some teeth into it. A motion was made by Carla Bowen that stipulation #2 as set forth in Resolution Number 01:04B be rescinded, and the mobile home may remain on the property as a second residence (non-rental). Ms. Bowen indicated that stipulations #1, 3 and 4 as set forth in Resolution Number 01:04B shall remain in effect, with the following additional stipulations. ***ADDITIONAL RECOMMENDED STIPULATIONS: A. The property shall remain reasonably clean and in compliance with all provisions of the Navajo County Zoning Ordinance in regard to junk, debris and storage of materials. B. The excavation site shall remain safely fenced.*** Harry Hancock seconded the motion. Motion unanimously carried.

**Item #3: Use Permit:** Discussion and possible Board action on a request by Donald & Bita Phillips, for a use permit to Allow the existing mobile home to be used to house elderly relatives on the same 2-acre parcel. Location: APN: 205-24-013A, T11N, R20E, Section 32, 5455 Herd Street, in Pinedale. Alan Knight gave a case history of the project and presented maps showing the general area and site plan. Mr. Knight commented that the Phillips were not present. Mr. Knight said that he had not received in calls or letter in favor or opposition regarding this matter. Staff recommends approval with stipulations. Mr. Knight said that there are modifications to these stipulations. Mr. asked that stipulation number three is stricken. Mr. Knight said that when he visited the property that there is junk on the property and this has to be removed prior to building the home. Mr. Knight presented pictures of the junk to the Board. Carla Bowen suggested that they include in the stipulation a time frame to have the property cleaned up (180 days). A motion was made by Carla Bowen to approve the use permit with the stipulations stated by staff. Ms. Bowen clarified that stipulation number three be stricken and that the junk must be removed from the property by September 9, 2003. ***RECOMMENDED STIPULATION: 1. Septic System(s) will be properly permitted and installed, and or certified by licensed contractor. 2. Neither residence shall ever be used as a rental. 3. Setbacks must be met as per the area's zoning requirements. 4. Junk must be removed from property by September 9, 2003.*** Harry Hancock seconded the motion. Motion unanimously carried.

**Item #4: Variance:** Discussion and possible Board action on a request by Jimmie & Virginia Wortham, to increase the tower height limitation from 100' to 140' to allow the existing amateur radio antenna to remain. Location: APN: 205-31-017C, T11N, R20E, Section 19, 5230 Alserita Road, in the Victory Heights/Pinedale area. Alan Knight gave a case history of the project and presented maps showing the general area and site plan. Mr. Knight passed out a letter of opposition that he had received including pictures of the tower at various locations to the Board. Mr. Knight said as far as the pictures are concerned the view was the main complaint on the tower. Mr. Knight said if you would take 40' off that tower with what you see on these pictures it would not make a lot of difference as far as the broadening of the view. Mr. Knight indicated that he had not received any letters in favor regarding this matter. Mr. Knight said that the tower would extend an additional 40' to the allowed 100'. Mr. Knight also displayed a typographical map of the area. Mr. Knight said that what they were concerned about was the fall zone and anything that would be in the area if the tower would ever fall. Mr. Knight gave the distances from each house pertaining to the fall zone. Staff recommends approval with one stipulation. Mr. Knight said that the additional 40' doesn't really add to the impact of the tower, since the tower is already 100' up in the air. Harry Hancock asked how the tower is lighted. Dave Ashton responded by saying that at 200' they are required to get a light. Carla Bowen asked if this was a residential area, and this is also 40 per cent more than the county stipulated. Ms. Bowen asked if the county was ever contacted when this was erected. Alan Knight replied yes, to it being in a residential area and said that the

zoning is A-General. Mr. Knight responded no, that the applicant did not secure a permit for the tower. **Carla Bowen** asked how long the tower been at this location. **Jim Wortham** who is the applicant responded by saying 10 years. Mr. Wortham explained that a professional tower erection company erected the tower. Mr. Wortham said that he assumed that they had gone through the permitting process. Mr. Wortham said that he did what was required to for him to do this, and he assumed that the company secured the permits. Mr. Wortham said that the reason that it is 140' long is because the amateur frequency that it is built for is what is called a 160' meter amateur band. Mr. Wortham said that the antenna to be a proper radiator it needs to be a quarter wavelength long. Mr. Wortham said that the wavelength is 160 meters and about 550 feet long. Mr. Wortham said that this is a fourth of this, and this is where the height comes from. Mr. Wortham indicated that they operate several contest stations and they use fairly low frequencies. Mr. Wortham explained that he has several long wire type antennas in excess of 500' going in different directions. Mr. Wortham said that the tower is just an addition to what they are using with the wire system. Mr. Wortham said they are working with the Pinedale/Clay Springs Fire Department. Mr. Wortham explained that the Pinedale/Clay Springs Fire Department are in the process of getting permit for another 100' tower at the Odd Fellows site, and they were thinking that if they could use this tower for their antenna, they could minimize the visual impact. **Bill Arendell, Carla Bowen and Harry Hancock** all agreed that they had problems with this. **Carla Bowen** said that if she owned a home in this area and if someone wanted to increase the tower 40 per cent higher than the normal county restrictions, then she would be very concerned. Ms. Bowen said that a 100' is very high. Ms. Bowen said that other concerns were the winds. **Jim Wortham** appeased Ms. Bowen concerns by saying that the tower was put to tower manufacture specification. Mr. Wortham said that it is guyed with 3/8-inch guy wire similar to what Navapache uses to design their power poles. There are four sets of guyed wires on it and they are insulated at the top. Mr. Wortham said if this was dropped to a 100' then this would compromise a lot of stuff, and they would have to put up a couple more 100' towers. Mr. Wortham said that 40' one way or another is not going to make that much of a difference. **Alan Knight** said that they don't require permitting on a tower that is 100' or less and they would have to meet the proper setbacks away from the property line. Mr. Knight said that they don't normally regulate ham operator towers. **Jim Wortham** explained that this is a 10-acre parcel that is heavily wooded and is difficult to see unless you have an adjacent lot. **Bill Arendell** asked if the applicant applied for a Special Use Permit would they qualify for it. **Dave Ashton** said that the location would have to be back a 140' from your property. Development Services would recommend approval for a Special Use Permit if they decided to go that way. All three Board members indicated that they had a change of heart. A motion was made by **Carla Bowen** to approve the Variance with the stipulation stated by staff. **Bill Arendell** seconded the motion. **RECOMMENDED STIPULATION: 1. Tower may not be used for any commercial endeavors-amateur only.** Motion unanimously carried.

**Item #4:** Possible approval of the minutes for the **February 12, 2003** meeting. A motion was made by **Harry Hancock** to approve the minutes. **Carla Bowen** seconded the motion. Motion unanimously carried.

**Item #5:** Board Members comments and/or directions to staff. Board Members may use this time to offer additional comments regarding any item on this agenda or any other topic, and the Board may direct Development Services Department staff to study or provide additional information on topics of the Boards choosing.

With there being no further business to come before the Board of Adjustment, the meeting was adjourned at 11:42 a.m. A motion was made by **Harry Hancock** to adjourn. **Carla Bowen** seconded the motion. Motion unanimously carried.

The Board reserves the right to adjourn into an executive session when needed, per A.R. S. 38-431.03 (A)(3) for legal counsel on the above matter.

NOTE: A copy of the agenda background material provided to the Board Members (with exception of material relating to possible executive sessions) is available for public inspection at the Development Services Office, Navajo county Co mplex, Holbrook, Arizona, and Monday through Friday, 8:00 a.m. to 5:00 p.m.

Signed this \_\_\_\_\_ day of \_\_\_\_\_,

Signed: \_\_\_\_\_  
**Chairman, Navajo County  
Board of Adjustment**

**ATTEST:**

\_\_\_\_\_  
**Development Services Secretary**